

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

A.O. SMITH CORPORATION and	)	
A.O. SMITH ENTERPRISES, LIMITED,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 4:11CV1117 TIA
	)	
EMERSON ELECTRIC COMPANY and	)	
EMERSON APPLIANCE SOLUTIONS,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court sua sponte. All matters are pending before the undersigned United States Magistrate Judge, with consent of the parties, pursuant to 28 U.S.C. § 636(c).

On July 7, 2011, Defendant Emerson Appliance Solutions filed a Motion to Dismiss. (Docket No. 11). Plaintiffs did not timely file any responsive pleading or opposition to the motion.

After reviewing the motion, the undersigned granted the unopposed motion on August 5, 2011, for the reasons argued by Emerson Appliance Solutions. (Docket No. 16). On August 8, 2011, Plaintiffs filed a Motion of A.O. Smith Enterprises, Limited for Reconsideration Pursuant to Rule 60(B) of this Court's August 5, 2011 Order Dismissing Defendant Emerson Appliance Solutions. (Docket No. 17). Defendant Emerson Appliance Solutions file a Memorandum of Law in Opposition to Plaintiffs' Rule 60 Motion (Docket No. 18) on August 9, 2011, and Plaintiffs filed a Reply thereto on August 11, 2011. (Docket No. 19). Without seeking leave of Court, Plaintiffs have filed on a Memorandum of Law in Opposition to Emerson Appliance Solutions' Motion to Dismiss and captioned the pleading when filing in CM-ECF as a "Memorandum in Support of Motion for Reconsideration Pursuant to Rule 60(B) of This Court's August 5, 2011 Order Dismissing Defendant Emerson Appliance

Solutions” on September 19, 2011. (Docket No. 24).

A review of the instant civil docket shows that any responsive pleading to Defendant Emerson Appliance Solutions’ Motion to Dismiss would have been due no later than July 18, 2011. In order to file this instant pleading out of time, Plaintiffs must seek leave of Court thereby giving Defendant Emerson Appliance Solutions time to file any opposition or responsive pleading on the record. The Court expects the parties “to abide by the Federal Rules of Civil Procedure and Local Rules.” Tockstein v. Spoeneman, Cause No. 4:07cv20ERW, at \* 3 (Mar. 12, 2009). Because Plaintiffs did not seek leave of court before filing the Opposition and after the Court ruled on the Motion to Dismiss, the Court will strike the pleading in its entirety. See Id.; Ronwin v. Ameren Corp., 2007 WL 4287872, at \*2 (E.D. Mo. Dec. 6, 2007). Accordingly,

**IT IS HEREBY ORDERED** that Plaintiffs’ pleading filed as a "Memorandum in Support of Motion for Reconsideration Pursuant to Rule 60(B) of This Court's August 5, 2011 Order Dismissing Defendant Emerson Appliance Solutions" in CM-ECF but captioned as a Memorandum of Law in Opposition to Emerson Appliance Solutions’ Motion to Dismiss (Docket No. 24) is STRICKEN.

Dated this 21st day of September, 2011.

/s/Terry I. Adelman  
UNITED STATES MAGISTRATE JUDGE